

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb



**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **February 19, 2009**, at 10:00 a.m.
in the Auditorium of the Harris State Building,
1515 Clay Street, Oakland, California 94612.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **February 19, 2009**, following the Public Meeting,
in the Auditorium of the Harris State Building,
1515 Clay Street, Oakland, California 94612.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **February 19, 2009**, following the Public Hearing,
in the Auditorium of the Harris State Building,
1515 Clay Street, Oakland, California 94612.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **February 19, 2009**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 22
Sections 1637 and 1646
Riding on Rolling Scaffolds

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 22
Sections 1637 and 1646
Riding on Rolling Scaffolds

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Existing standards in the Construction Safety Orders (CSO), Section 1646(f) permit employees to ride on a rolling scaffold that is moved by others below provided that all of the provisions in Section 1646(f) are met. The proposed amendments for this rulemaking action are initiated in large part from recommendations submitted to the Occupational Safety and Health Standards Board (Board) by the Technical Services Information Bureau and the Acoustical Industry Advancement Fund (Petitioner) in the Board's Petition File No. 465.

The Petitioner submitted recommendations that would permit, with additional conditions and restrictions, the ability to ride on a rolling scaffold without being moved by others below. The proposal was developed with the assistance of an advisory committee. The Petitioner and other stakeholders emphasize current standards that require a rolling scaffold with a rider on it to be moved by others below is a level of staffing that is rarely available or feasible in operations such as the installation of ceilings.

Notwithstanding existing federal and state OSHA standards that permit riding on a rolling scaffold, scaffold manufacturer's literature and instructions in general have discouraged the practice of riding on a rolling scaffold. Amendments are also proposed for Section 1637(b)(4) to address any differences between the manufacturer's recommendations and the provisions of proposed Section 1646(i) and (j) that pertain to riding on a rolling scaffold platform.

Employers exercising the option to move rolling scaffolds with a rider on the platform under the provisions of proposed Section 1646(j) would have relief from the mandatory requirements that the scaffold be moved by others below in all situations. The Petitioner and statements from a number of stakeholders at the advisory committee indicated that without this proposal, the worker on a rolling scaffold must repeatedly climb up and down the scaffold numerous times during a work shift to unlock the wheels each time the scaffold is moved, thereby, exposing the worker unnecessarily to potential falls and an onerous fatigue factor.

The proposed amendments for this rulemaking would permit one employee to self-propel (move oneself) while on a rolling scaffold provided that all of the existing requirements for riding on a rolling scaffold are met in combination with additional requirements proposed in the amendments. Additional requirements in the proposal include, but are not limited to, ensuring that the scaffold platform is no more than 4 feet above the floor level, that the scaffold platform is at least 20 inches wide, and that the scaffold is secured from movement when workers are climbing or working on the scaffold.

The proposal also adds several subsections that are consistent with federal OSHA provisions related to riding on mobile scaffolds and relocates several existing subsections for optimal formatting and organization of the standard.

Section 1637. General Requirements.

Section 1637 contains a number of provisions addressing the design, construction and use of all types of scaffolds.

Subsection (b). Scaffold Design and Construction. **Subsection (b)(4).**

Existing subsection (b)(4) states that manufactured scaffolds shall be used in accordance with the manufacturer's recommendations. Scaffold manufacturer's literature and instructions in general have discouraged the practice of riding on a rolling scaffold notwithstanding that both federal OSHA and Cal/OSHA standards have long permitted the practice with conditions and restrictions. This may in part be related to the manufacturer's concerns associated with injuries that could occur in the event that employees do not follow the conditions and requirements of OSHA standards.

Therefore, an amendment is proposed for Section 1637(b)(4) for clarity that will have the effect of addressing any differences between the manufacturer's recommendations and the provisions of proposed Section 1646(i) and (j) that pertain to the requirements for riding on a rolling scaffold platform.

Section 1646. Tower Scaffolds and Rolling Scaffolds, Wood or Metal.

Section 1646 contains provisions addressing the design and use of mobile scaffolds including provisions addressing scaffold components such as the uprights, ledgers, ribbons, braces and planking.

Existing subsections (g), (h), and (i) are re-designated as subsections (f), (g) and (h), respectively. These editorial changes are without regulatory effect and are proposed in order to promote the logical organization of this standard.

Subsection (i). Riding.

Existing subsection (f), redesignated as subsection (i) in the proposal, contains provisions that permit riding on a rolling scaffold moved by others below provided that the conditions of this subsection are met. These conditions include provisions that ensure a safe floor surface that is within 3 degrees of level, free of obstructions and that the minimum scaffold base dimension is at least ½ of the scaffold height. Additionally, the conditions specify the type of wheels that must be used.

A new subsection (i)(4) is proposed that requires the manual force used to move the scaffold is to be applied as close to the base as practicable, but not more than 5 feet above the supporting surface of the scaffold. A new subsection (i)(5) is proposed that requires that, before a scaffold is moved, each employee on the scaffold shall be made aware of the move. New subsection (i)(6) is proposed that requires that no employee shall be on any part of the scaffold which extends outward beyond the wheels, casters, or other supports. Proposed subsections (i)(4) through (i)(6) are essentially the same as the federal OSHA counterpart standards in 29 Code of Federal Regulations (CFR) 1926.452(w) that pertain to moving mobile scaffolds. The effect of the amendments is to increase the safety afforded by these provisions and to ensure that the provisions that pertain to riding on rolling scaffolds are at least as effective as the federal standards.

Subjection (j). Riding on a Self-Propelled Scaffold.

A new proposed subsection (j) provides that one employee may ride on and move a rolling scaffold while on the platform without assistance from others below, provided the conditions in this subsection are met.

Proposed subsection (j)(1) requires that all of the provisions in subsection (i) be met, except that the scaffold need not be moved by others below. Proposed subsection (j)(1) has the effect of ensuring that the same conditions, limitations and restrictions required when riding a scaffold moved by others below is afforded to an employee moving the scaffold without assistance (self-propelling).

Proposed subsection (j)(2) requires that the scaffold platform not be more than 4 feet above the floor level. CSO, Section 1621 requires that the unprotected sides of rolling scaffolds be protected by railings when the platform is 7 ½ feet or more above the ground, floor or level underneath. The effect of proposed subsection (j)(2) is that an employee self-propelling a rolling scaffold is limited to a relatively low working height that would mitigate the possibility of serious injury in the event of a fall.

Proposed subsection (j)(3) provides that the working platform be no less than 20 inches in width with a maximum 1 inch space between platform planks. Scaffold planking units are typically 10 inches nominal in width, meaning that the actual width measurement is slightly less than 10 inches. The maximum 1 inch opening between planking allows for adequate spacing between planking units when the platform does not consist of a single platform unit. The effect of this proposed amendment is to ensure that the scaffold platform is wide enough to provide a safe work area on the platform.

Proposed subsection (j)(4) requires that the wheels or casters of rolling scaffolds be provided with an effective locking device that is used in accordance with subsection (c) of Section 1646, or that rolling scaffolds be provided with an effective device that is used to prevent movement of the scaffold when workers are climbing or working on the scaffold. The effect of this amendment is to ensure that the rolling scaffold is secured from movement when employees are climbing or working on the scaffold.

The intent of this proposal is to address additional provisions related to the manual movement of a rolling scaffold with a rider on the platform. Therefore, the use of powered systems is outside the scope of this proposal. Consequently, proposed subsection (j)(5) would have the effect of prohibiting the use of power systems such as motor vehicles, add-on motors, or battery powered equipment to propel a scaffold.

Subsection (k). Training.

A new proposed subsection (k) would have the effect of requiring that employees who ride on rolling scaffolds and employees that assist in moving employees riding on a rolling scaffold are trained in accordance with applicable standards and that they have the ability to recognize the hazards associated with riding on a rolling scaffold.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made a determination that this proposal will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment. The existing standard in Section 1646(f), proposed as subsection (i), addresses provisions that permit employees to ride on the platform of a rolling scaffold that is moved by others below, provided all of the conditions in the subsection are met. This proposal adds amendments to proposed subsection (i) that require additional safety procedures to be followed when moving a rolling scaffold but will not require additional equipment or new technologies.

The proposal also adds a new subsection (j) that would allow, with conditions and restrictions, a rolling scaffold to be moved by a rider on the platform without assistance from others. However, the proposal will not mandate the use of new equipment or technology as the employer has the option to move a scaffold in conformance with the provisions of new subsection (j).

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying

with the proposal. Furthermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, these standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small business. However, no economic impact is anticipated. The proposal provides procedural requirements that can be addressed by instruction and training. Additionally, the proposal provides the employer another option as to how a rolling scaffold can be moved while one employee is on the platform. Also see the statement under the heading “Specific Technology or Equipment.”

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s Office.

Notice is also given that any interested person may present statements or arguments orally or in writing

at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than February 13, 2009. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on February 19, 2009, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF
REGULATIONS
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS
BY THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 5, High Voltage Electrical Safety Orders, Group 2, Article 36, Sections 2940.6 and Appendix C, **Updating National Consensus Standards for Insulating Protective Equipment.**

Heard at the September 18, 2008, Public Hearing; adopted on October 16, 2008; filed with the Secretary of State on December 2, 2008; and will become effective on January 1, 2009.

Copies of this standard are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: <http://www.dir.ca.gov/oshsb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: oshsb@dir.ca.gov.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer